



# MISSOURI DEPARTMENT OF MENTAL HEALTH



DEPARTMENT  
OPERATING  
REGULATION  
NUMBER

DOR

4.410

DORN SCHUFFMAN, DEPARTMENT DIRECTOR

|   |                                 |                                   |                          |                       |
|---|---------------------------------|-----------------------------------|--------------------------|-----------------------|
| CHAPTER<br>Regulatory Compliance                | SUBCHAPTER<br>HIPAA Regulations | EFFECTIVE DATE<br>Jan. 15, 2003   | NUMBER OF PAGES<br>2     | PAGE NUMBER<br>1 of 2 |
| SUBJECT<br>Duty to Warn                         |                                 | AUTHORITY<br>Section 630.050 RSMo |                          | History See Below     |
| PERSON RESPONSIBLE<br>Director, Division of CPS |                                 |                                   | Sunset Date July 1, 2006 |                       |

**PURPOSE:** Prescribes policy and procedure regarding the department's duty to warn and confirms that the duty to warn continues to be authorized pursuant to an exception allowed under HIPAA (see 45 CFR Section 164.512(j)).

**APPLICATION:** The Department of Mental Health, its facilities and workforce

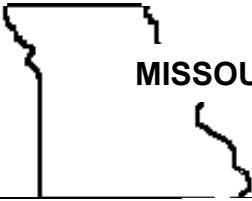
(1) The head of each mental health facility shall develop policies and procedures for informing persons who may be endangered by a client's release, discharge, unauthorized absence, or any unexpected change in a client's condition. This ability to have local policy is an exception to the general HIPAA prohibition on local policies. This requirement specifically excludes notification procedures for forensic clients, governed under Chapter 595 of the Revised Statutes of Missouri, and detailed in the Forensic Manual of the Department of Mental Health.

(2) During the course of evaluating, treating or caring for a client, all information as specified below regarding a person at risk of harm by the release shall be thoroughly documented and recorded on a readily identifiable and easily accessible form. Such documentation shall be gathered with due diligence and shall include names and phone numbers of persons to be contacted as provided by this DOR. Such documentation, if known, shall include, but not be limited to:

- (A) The name(s) of such person(s);
- (B) Relationship of the person(s) to the client;
- (C) The address of the person(s);
- (D) The telephone number of the person(s);
- (E) Where this person may be found if not at the designated place of residence;
- (F) How this person may be harmed; and
- (G) Under what conditions this person(s) may be harmed by the client.

(3) Sources of information about a client's potential for harming others are not limited to specific reports made by the client. The head of the facility or designee shall document reports made to the facility by family members, law enforcement agencies, other social agencies, and other appropriate persons.

(4) Any employee who has information about a client's threat or potential for harming another person shall immediately report such information to the head of the facility or designee. Such information may be based on verbal reports from the client, information received under section (3) of this DOR or on clinical impressions by mental health professionals who have treated or are currently treating the client.



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(5) When a condition, as set out in section (1) of this DOR occurs, the head of the facility or designee shall promptly contact those persons documented in section (2) of this DOR, the appropriate law enforcement agency and immediately notify the division director.

(6) All contacts with persons at risk of harm are to be properly documented in the client's medical record. Information provided to the person(s) at risk and law enforcement shall include:

- (A) Name and description of the client;
- (B) When the client left the facility; and
- (C) Any additional information deemed necessary to assist the person at risk.

(7) Quality Assurance. The head of the mental health facility shall ensure that all appropriate staff are trained regarding the policies and procedures contained in this DOR. The head of the mental health facility, or designee, shall keep a log of all contacts made pursuant to section (5) of this DOR.

(8) Failure to Comply. Failure to comply or assure compliance with the provision of the DOR may be cause for disciplinary action.

(9) The Health Portability and Accountability Act of 1996 (HIPAA), found at 45 CFR Section 164.502 Et. Seq., does not limit the responsibility or duty to warn as set out in this DOR. 45 CFR Section 164.512 (j) provides an exception under HIPAA which allows the warning to occur to avert a serious threat to health or safety.

*History: Original DOR effective October 15, 1990. Amendment effective July 2, 2002.  
Amendment effective January 15, 2003.*